



# MILPITAS CITY COUNCIL MEETING AGENDA

**TUESDAY, NOVEMBER 15, 2016**

**455 EAST CALAVERAS BOULEVARD, MILPITAS, CA  
5:30 P.M. CLOSED SESSION • 7:00 P.M. PUBLIC BUSINESS**

## **SUMMARY OF CONTENTS**

**I. CALL TO ORDER/ROLL CALL** by the Mayor (5:30 p.m.)

**II. ADJOURN TO CLOSED SESSION**

**(a) CONFERENCE WITH LABOR NEGOTIATORS - COLLECTIVE BARGAINING**

Pursuant to California Government Code Section 54957.6

City Negotiators: Tom Williams, Tina Murphy

Employee Groups: (1) Milpitas Police Officers Association and (2) International Association of Fire Fighters. Under Negotiation: Wages, Hours, Benefits, and Working Conditions

**(b) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code section 54956.9(d)(1)

Name of Case: American Arbitration Association Case No. 01-16-0000-4753

**(c) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code section 54956.9(d)(1)

City of Milpitas' appeal of City of San Jose Planning Director Decision, San Jose Planning Commission, file no. PD 14-014

**(d) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code section 54956.9(d)(1)

Name of Case: US Sino Investment Co. v. City of Milpitas, et al., Superior Court Case No. MSC15-01700

**(e) CONFERENCE WITH LEGAL COUNSEL, ANTICIPATED LITIGATION**

Pursuant to California Government Code section 54956.9(d)(4) City as Plaintiff

**(f) CONFERENCE WITH LABOR NEGOTIATOR**

Pursuant to California Government Code Section 54957.6

City Negotiator: Mayor Jose Esteves

Unrepresented Employee: Tom Williams

**(g) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code Section 54956.9(d)(1)

Santa Clara County Superior Court Case No. 16CV301785

**(h) CONFERENCE WITH LEGAL COUNSEL, EXISTING LITIGATION**

Pursuant to California Government Code Section 54956.9(d)(1)

DFEH No. 747353-213391/EEOC No. 37A-2016-01947-C

- III. CLOSED SESSION ANNOUNCEMENT:** Report on action taken in Closed Session, if required pursuant to Government Code Section 54957.1, including the vote or abstention of each member present
- IV. PLEDGE OF ALLEGIANCE** (7:00 p.m.)
- V. INVOCATION** (Mayor Esteves)
- VI. APPROVAL OF COUNCIL MEETING MINUTES** – November 1, 2016
- VII. SCHEDULE OF MEETINGS – COUNCIL CALENDARS** - November and December 2016
- VIII. PRESENTATION**

- Presenting the Water Environment Federation – 2016 Award Winner: Overall Highest Score in Innovation and Program Management for the Santa Clara Valley Urban Runoff Pollution Prevention Program

**IX. PUBLIC FORUM**

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Members of the audience are invited to address the Council on any subject not on tonight's agenda. Speakers must come to the podium, state their name and city of residence for the Clerk's record, and limit their remarks to three minutes. As an item not listed on the agenda, no response is required from City staff or the Council and no action can be taken. However, the Council may instruct the City Manager to place the item on a future meeting agenda.

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**X. ANNOUNCEMENTS**

**XI. ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

**XII. APPROVAL OF AGENDA**

**XIII. CONSENT CALENDAR (Items with asterisks\*)**

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Consent calendar items are considered to be routine and will be considered for adoption by one motion. There will be no separate discussion of these items unless a member of the City Council, member of the audience, or staff requests the Council to remove an item from or be added to the consent calendar. Any person desiring to speak on any item on the consent calendar should ask to have that item removed from the consent calendar. If removed, this item will be discussed in the order in which it appears on the agenda.

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**XIV. PUBLIC HEARINGS**

- 1. Conduct a Public Hearing on Updated Building Codes, Adopt a Resolution of Findings, Waive the Second Reading and Adopt Ordinance No. 65.145 Adopting the 2016 Edition of the California Building Code, California Residential Code, California Mechanical Code, California Electrical Code, California Plumbing Code, California Historical Building Code, California Green Building Standards Code, California Energy Code and California Existing Building Code, and 2015 Edition of the International Existing Building Code Appendix Chapters A2, A3, A4 and A5 (Staff Contact: Keyvan Irannejad, 408-586-3244)**
- 2. Conduct a Public Hearing, Adopt a Resolution of Findings, Waive the Second Reading and Adopt Ordinance No. 113.24 Adopting the 2016 Edition of the California Fire Code and Specified Local Amendments (Staff Contact: Albert Zamora, 408-586-3371)**
- 3. Conduct a Public Hearing and Adopt a Resolution Approving the Environmental Assessment for the Recycled Water Extension Project No. 7118 (Staff Contact: Marilyn Nickel, 408-586-3347)**

**XV. REPORTS OF MAYOR**

- \* 4. Consider Mayor's Recommendations for Re-appointments to Eight City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**
- 5. Hear Request of Mayor and Consider Directing Staff to Prepare an Ordinance to Prohibit Smoking in Outdoor Dining Areas (Contact: Mayor Esteves, 408-586-3029)**

**XVI. NEW BUSINESS**

- 6. Receive the City of Milpitas Year End Financial Report for the Fiscal Year Ended June 30, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**
- \* 7. Accept the City's Comprehensive Annual Financial Report and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**

**XVII. RESOLUTIONS**

- \* 8. Adopt a Resolution Making Findings for Unexpended Development Fees and Review and Accept the Annual Developer Fee Disclosure Information Pursuant to the Mitigation Fee Act (Staff Contact: Jane Corpus, 408-586-3125)**
- \* 9. Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Wrigley-Ford Creek Erosion Repair Project No. 3700 and Granting Authorization to the City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**
- \*10. Adopt a Resolution Approving a Sole Source Agreement with TriTech Software Systems and Authorizing the City Manager to Execute Amendment No. 1 to the Agreement with TriTech including a Statement of Work for an Upgrade to the Law Enforcement Records Management System (RMS) for a Total of \$437,511 (Staff Contacts: Mike Luu, 405-586-2706 and Armando Corpuz, 408-586-2534)**
- \*11. Adopt a Resolution Authorizing the City Manager to Execute a New Sole Source Agreement with Telecommunications Engineering Associates For Maintenance and Support of the Public Safety Dispatch Center Telecommunications System in an Amount Not-To-Exceed \$91,232 Per Year (Staff Contacts: Chris Schroeder, 408-586-3161 and Armando Corpuz, 408-586-2534)**
- \*12. Adopt a Resolution Amending the City's Classification Plan Related to Positions in the City Manager's Office, Public Works, Planning and Neighborhood Services and Recreation Departments; Authorize Positions and Approve a Budget Appropriation for the Public Works and City Manager's Office Positions (Staff Contact: Tina Murphy, 408-586-3086)**
- \*13. Adopt a Resolution Amending the Classification Plan to Adjust Salary Ranges for City of Milpitas Unrepresented Classifications (Staff Contact: Tina Murphy, 408-586-3086)**

**XVIII. AGREEMENTS**

- \*14. Authorize City Manager to Execute the Third Amendment to the 911 Emergency Medical Services Provider Agreement Between the City of Milpitas and the County of Santa Clara County (Staff Contact: Robert Mihovich, 408-586-2811)**

- \*15. Approve Amendment No. 3 to the Agreement with Law Firm of Burke, Williams & Sorensen, LLP for Legal Services Regarding Elimination of Odor (Staff Contact: Christopher Diaz, 408-586-3040)**
- \*16. Approve Final Map Tract No. 10393 for a Six-Commercial/Industrial Building Development Located at 625 North McCarthy Boulevard (McCarthy Creekside) and Authorize the City Manager to Execute the Subdivision Improvement Agreement (Staff Contact: Judy Chu, 408-586-3325)**
- \*17. Approve and Authorize the City Manager to Execute the Third Amendment to a Multi-Party Agreement Providing for Continued Participation in the Santa Clara Valley Urban Runoff Pollution Prevention Program (Staff Contact: Judy Chu, 408-586-3325)**
- \*18. Authorize the City Manager to Execute a Storm Water Management Operation and Maintenance Agreement for Traverse Partners, LLC (Staff Contact: Judy Chu, 408-586-3325)**
- \*19. Approve Amendment No. 2 to the Consultant Agreement with RMC Water & Environment for the Recycled Water Pipeline Extension, Capital Improvement Program Project No. 7118, Extending the Agreement Term to December 31, 2017 (Staff Contact: Marilyn Nickel, 408-586-3347)**
- \*20. Approve Amendment No. 4 to the Consultant Agreement with HF&H Consultants for Solid Waste Procurement Services in the Amount of \$138,160 and Approve a Budget Appropriation in the Amount of \$200,000 for Project No. 3401 (Staff Contact: Marilyn Nickel, 408-586-3348)**
- \*21. Approve Amendment No. 3 to Employment Agreement with City Manager Thomas C. Williams (Staff Contact: Christopher Diaz, 408-586-3040)**

**XIX. ADJOURNMENT**

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, DECEMBER 6, 2016**

### **KNOW YOUR RIGHTS UNDER THE OPEN GOVERNMENT ORDINANCE**

Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions and other agencies of the City exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and the City operations are open to the people's review. For more information on your rights under the Open Government Ordinance or to report a violation, contact the City Attorney's office at Milpitas City Hall, 455 E. Calaveras Blvd., Milpitas, CA 95035  
Phone 408-586-3040

*The Open Government Ordinance is codified in the Milpitas Municipal Code as Title I Chapter 310 and is available online at the City's website [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) by selecting the Milpitas Municipal Code link.*

Materials related to an item on this agenda submitted to the City Council after initial distribution of the agenda packet are available for public inspection at the City Clerk's office at Milpitas City Hall, 3<sup>rd</sup> floor , 455 E. Calaveras Blvd., Milpitas and on the City website.

All City Council agendas and related materials can be viewed online here:  
[www.ci.milpitas.ca.gov/government/council/agenda\\_minutes.asp](http://www.ci.milpitas.ca.gov/government/council/agenda_minutes.asp) (select meeting date)

### **APPLY TO SERVE ON A CITY COMMISSION**

Current Vacancies on  
Economic Development Commission (hotel rep.)  
Emergency Preparedness Commission  
Sister Cities Commission

Commission application forms are available online at [www.ci.milpitas.ca.gov](http://www.ci.milpitas.ca.gov) or at Milpitas City Hall. Contact the City Clerk's office at 408-586-3003 for more information.

*If you need assistance, per the Americans with Disabilities Act, for any City of Milpitas public meeting, call the City Clerk at 408-586-3001 or send an e-mail to [mlavelle@ci.milpitas.ca.gov](mailto:mlavelle@ci.milpitas.ca.gov) prior to the meeting. You may request a larger font agenda or arrange for mobility assistance. For hearing assistance, headsets are available in the City Council Chambers for all meetings in that facility.*

## AGENDA REPORTS

### **XIV. PUBLIC HEARINGS**

- 1. Conduct a Public Hearing on Updated Building Codes, Adopt a Resolution of Findings, Waive the Second Reading and Adopt Ordinance No. 65.145 Adopting the 2016 Edition of the California Building Code, California Residential Code, California Mechanical Code, California Electrical Code, California Plumbing Code, California Historical Building Code, California Green Building Standards Code, California Energy Code and California Existing Building Code, and 2015 Edition of the International Existing Building Code Appendix Chapters A2, A3, A4 and A5 (Staff Contact: Keyvan Irannejad, 408-586-3244)**

**Background:** On November 1, 2016, the City Council introduced Ordinance No. 65.145. Ordinance No. 65.145 repeals Chapter 1, Chapter 2, Chapter 3, Chapter 3.5, Chapter 5, Chapter 6, Chapter 7, Chapter 11, Chapter 12, Chapter 13, Chapter 14, Chapter 15, Chapter 19, Chapter 150 and Chapter 160 of Title II of the Milpitas Municipal Code and it will adopt by reference the 2016 Edition of the California Building Code, California Residential Code, California Mechanical Code, California Electrical Code, California Plumbing Code, California Historical Building Code, California Green Building Standards Code, California Energy Code and California Existing Building Code, and 2015 Edition of the International Existing Building Code Appendix Chapters A2, A3, A4 and A5, along with specified local amendments. No changes have been made to the ordinance since its first reading. As noticed, a public hearing must be conducted to receive any comments, prior to the adoption of the ordinance.

Also included for the City Council is a resolution of findings for adoption.

**Fiscal Impact:** None.

**Recommendations:**

1. Open the public hearing for comments, then move to close the hearing.
  2. Adopt a resolution setting forth the findings required under state law for the local amendments of the 2016 Building Code update.
  3. Waive the second reading of Ordinance No. 65.145 and adopt Ordinance No. 65.145, enacted as Chapter enacted as Chapter 1, Chapter 2, Chapter 3, Chapter 3.5, Chapter 5, Chapter 6, Chapter 7, Chapter 11, Chapter 12, Chapter 13, Chapter 14, Chapter 15, Chapter 19, Chapter 150 and Chapter 160 of Title II of the Milpitas Municipal Code revising provisions for Building Regulations.
- 2. Conduct a Public Hearing, Adopt a Resolution of Findings, Waive the Second Reading and Adopt Ordinance No. 113.24 Adopting the 2016 Edition of the California Fire Code and Specified Local Amendments (Staff Contact: Albert Zamora, 408-586-3371)**

**Background:** On November 1, 2016, the City Council introduced Ordinance No. 113.24. Ordinance No. 113.24 repeals Chapter 300 of Title V of the Milpitas Municipal Code and adopts by reference the 2016 California Fire Code, along with specified local amendments. No changes have been made to the ordinance since its first reading. Included for the City Council is a resolution of findings for adoption.

**Fiscal Impact:** None.

**Recommendations:**

1. Open the public hearing for comments, and move to close it following any speakers.
2. Adopt a resolution setting forth the findings required under state law for the local amendments of the 2016 Fire Code update.

3. Waive the second reading and adopt Ordinance No. 113.24, enacted as Chapter 300, Title V of the Milpitas Municipal Code.

**3. Conduct a Public Hearing, and Adopt a Resolution Approving the Environmental Assessment for the Recycled Water Extension Project No.7118 (Staff Contact: Marilyn Nickel, 408-586-3347)**

**Background:** In 2015, the City Council approved the Water Supply Augmentation Study and directed staff to continue investigation into recycled water pipeline extensions. By using recycled water for irrigation, the City reduces overall potable water demand. The reduced potable water demand lowers the City's per capita water use, which helps meet State conservation mandates. A second benefit to the Milpitas community is the improved operational flexibility made possible with "saved" potable water supply. RMC Water & Environment was retained to prepare a comprehensive grant application package. The State requires general, technical, financial, and environmental information. This report focuses on the environmental information. The Council packet includes a resolution, response memorandum, Mitigation Monitoring and Reporting Program, Initial Study/Mitigated Negative Declaration Report, and related Appendices.

**Project Description:** The ultimate project includes construction of new recycled water infrastructure, which consists of approximately 50,560 linear feet of pipelines, a storage tank, and four pump stations. The goal of the recycled water extension is to add large irrigation customers and improve reliability by looping the City's recycled water pipe network. The largest irrigation sites are the two hillside golf courses. Other potential irrigation customers include schools, parks, and HOA landscaping.

**California Environmental Quality Act:** Pursuant to the California Environmental Quality Act (Pub. Res. Code, § 21000 et seq.) and state CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), the City is the lead agency for the proposed Recycled Water Pipeline Extension Project. The City, through its environmental consultant, prepared an Initial Study to evaluate the environmental impacts of the proposed project pursuant to Section 15070 of the State CEQA Guidelines. Based upon the findings of the Initial Study, staff prepared a Draft Mitigated Negative Declaration. The Initial Study and Mitigated Negative Declaration (IS/MND) was circulated for public review and comment from September 13, 2016 through October 17, 2016 along with a notice of intent to adopt a Mitigated Negative Declaration pursuant to Public Resources Code section 21091(b). The IS/MND was made available for review and comment on the City's website and at the City's Planning and Neighborhood Services office at 455 East Calaveras Blvd., Milpitas. Although the Initial Study identified potentially significant impacts in the areas of Aesthetics, Air Quality, Biological Resources, Cultural Resources, Hazards and Hazardous Materials, Hydrology and Water Quality, Noise, and Transportation/Traffic, there would no significant impact with the implementation of mitigation measures.

Additionally, out of an abundance of caution, two improvement measures regarding recreation are recommended and included in the MND and MMRP, but are not required mitigation for the Project. The City shall be responsible for implementation all mitigation measures. Seven comment letters were received during the public comment period. A memorandum has been prepared to address comments received on the IS/MND, which is included in the Final IS/MND and in the Council packet. As stated in State CEQA Guidelines section 15074, the Council is required to review and consider the IS/MND and comments received during the public review period prior to the adoption of the MND. Adoption of the MND is dependent on the finding by the Council that, based on the whole record before it, there is no substantial evidence, with the mitigation measures required by the MND, that the proposed project will have a significant impact on the environment, and that the MND reflects the Lead Agency's independent judgment and analysis.

**Alternative:** Failure to approve the Environmental Assessment will halt the grant application process.

**Fiscal Impact:** An approved environmental document is a required attachment to the grant application.

**Attachments:**

- A. Resolution Approving Recycled Water Pipeline Extension Project
- B. Final Initial Study and Mitigated Negative Declaration
- C. Mitigated Monitoring and Reporting Program

**Recommendations:**

- 1. Open the public hearing and move to close it following any speakers.
- 2. Review and consider the information in the Initial Study/Mitigated Negative Declaration and comments received during the public review period.
- 3. Adopt a resolution approving the Environmental Assessment for the Recycled Water Extension Project which (1) adopts the findings, based on the whole record before the Council, there is no substantial evidence that the proposed project will have a significant impact on the environment, and that the IS/MND reflects the Lead Agency's independent judgment and analysis, (2) adopts the final IS/MND for the proposed project, (3) adopts the Mitigated Monitoring and Reporting Program, and (4) directs staff to file a Notice of Determination.

**XV. REPORTS OF MAYOR**

- \* 4. **Consider Mayor's Recommendations for Re-appointments to Eight City of Milpitas Commissions (Contact: Mayor Esteves, 408-586-3029)**

**Background:** Mayor Esteves recommends the following re-appointments of sitting Commissioners and alternate members:

**Arts Commission** - current terms expired in October 2016:

Re-appoint Commissioner Tess Santos to a term of 3 years which will expire in October 2019.

Re-appoint Alternate No. 1 Marsha Tran and Alternate No. 3 Lu Quiang Shu to terms of 2 years each that will expire in October 2018.

**Community Advisory Commission**

Re-appoint Commissioner Van Lan Truong (past term expired in January 2016) to a term of 4 years which will expire in January of 2020.

**Library Advisory Commission** – current terms expired in June 2016

Re-appoint Commissioners Yu-Lan Chou and Hellie Mateo to terms of 2 years each which will expire in June of 2018.

**Parks, Recreation and Cultural Resources Commission**

Re-appoint Commissioner Vishnu Mathur (past term expired in June 2016) to a term of 3 years which will expire in June of 2019.

**Planning Commission** – current terms will expire end of December 2016

Re-appoint Commissioners Sudhir Mandal and Demetress Morris to new terms of 3 years each which will expire in December of 2019.

**Recycling and Source Reduction Advisory Commission** –

current terms expired in October 2016:

Re-appoint Commissioners Marta Martinez and Manpreet Badesh to new terms of 3 years each which will expire in October 2019.

Re-appoint Alternate No. 1 Mandeep Singh to a term of 2 years which will expire in October of 2018.

**Senior Advisory Commission** - current terms will expire end of December 2016

Re-appoint current Commissioners Melba Holliday, Deborah Langley, Jae Kuk Wi and Alternate No. 2 Nona Tolentino to new terms of 2 years each which will expire in December of 2018.

**Telecommunications Commission**

Re-appoint Commissioner Sukhi Singh (past term expired in June 2016) to a term of 3 years which will expire in June of 2019.

**Recommendation:** Receive Mayor's recommendation and approve re-appointments to eight City of Milpitas Commissions.

**5. Hear Request of Mayor, and Consider Directing Staff to Prepare an Ordinance to Prohibit Smoking in Outdoor Dining Areas (Contact: Mayor Esteves, 408-586-3029)**

**Recommendation:** Receive request from Mayor Esteves for a work project of more than four hours of staff time, and direct City staff to prepare an ordinance to prohibit smoking in outdoor dining areas throughout the city.

**XVI. NEW BUSINESS**

**6. Receive the City of Milpitas Year End Financial Report for the Fiscal Year Ended June 30, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**

**Background:** The preliminary year end financial report indicates that total General Fund revenue was above budget by approximately \$7 million. The biggest contributors for the increase came from property tax revenue, transient occupancy tax (hotel tax) and licenses and fines. Property tax revenue increased by \$2.3 million over budget due to recovery of the housing market and increased assessed valuations on most properties. The City also received \$5.1 million distribution from the Redevelopment Property Tax Trust Fund ("RPTTF") which exceeded budget by \$0.7 million, again due to housing market recovery and increased assessed valuations of properties in the RDA Project Area. The \$5.1 million distribution represents the City's share of the residual RDA property tax revenue after satisfying the recognized debt obligations of the former RDA.

The hotel tax revenue exceeded budget by \$1.8 million, reflecting economic recovery in this region. Other Licenses and Fines revenue increased by \$1.1 million over budget primarily due to increase activity in building permits and plan checking.

On the expenditures side, the report shows that City departments achieved savings in the General Fund operating budget of 6.7% (approximately \$5.3 million). The combination of improved revenue and budget savings resulted in a net income of \$12 million. Pursuant to the City's budget policy, any excess revenue and/or distributions from the RPTTF will be transferred to the General Government Capital Improvement Project Fund to meet future capital improvement project funding needs. It should be noted that the most recently adopted Five Year Capital Improvement Plan identified \$57.8 million funding deficiency in the next four years. Any excess revenue or cost savings from the General Fund will be used to help offset some of the CIP funding deficiency.

**Fiscal Impact:** None.

**Recommendation:** Receive the year end financial report for the Fiscal Year ended June 30, 2016.

- \* 7. **Accept the City's Comprehensive Annual Financial Report and Other Related Annual Audited Reports for the Fiscal Year Ended June 30, 2016 (Staff Contact: Jane Corpus, 408-586-3125)**

**Background:** The Comprehensive Annual Financial Report (CAFR) of the City of Milpitas, Single Audit Report, Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment and the Memorandum on Internal Control and Required Communications for the fiscal year ended June 30, 2016 are presented to the City Council for review.

**Comprehensive Annual Financial Report (CAFR) of the City of Milpitas**

The CAFR presents the operations and financial activity of all the City's various funds, including the General Fund. It includes an unqualified audit opinion from Maze & Associates, the City's external auditors, that the financial statements present fairly the results of operations for the year ended June 30, 2016, in conformance with Generally Accepted Accounting Principles (GAAP).

**Single Audit Report**

The Single Audit has been prepared in conformity with the provisions of the Federal Single Audit Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards* (Uniform Guidance). The report did not disclose any material weaknesses or significant deficiencies or instances of noncompliance on the internal control over the major federal award programs.

**Agreed Upon Procedures Report on Compliance with the Appropriations Limit Increment**

This report shows the auditor applied specific procedures to validate the City's Appropriations Limit calculations.

**Memorandum on Internal Control and Required Communications**

Under generally accepted auditing standards, our auditors are encouraged to report certain matters regarding the City's internal control structure. The City's auditors have provided such a report in their Memorandum on Internal Control and Required Communications ("Management Letter") for the Year Ended June 30, 2016. This report includes management response to the auditor's recommendations on reviewing Personnel Action Forms for accuracy, developing procedures to review fee calculation for permit fees charged to customers, update the Municipal Code to remove conflicts in the Purchasing and contract authority and to update the City Departments to be consistent with the annual budget, general ledger and annual financial statements, and to update the information systems best practices for Payment Card Industry Compliance and a Business Continuity Plan with Regards to Information Technology. It should be noted that the auditors do not view any of their comments as material weaknesses on the City's internal control structure.

**Fiscal Impact:** None.

**Attachments:**

- A. Comprehensive Annual Financial Report for FY 2015-16 (bound booklet)
- B. Single Audit Report for FY 2015-16
- C. Agreed Upon Procedures report on Compliance with the Appropriations Limit Increment
- D. Memorandum on Internal Control and Required Communications for FY 2015-16

**Recommendation:** Accept the City's Comprehensive Annual Financial Report, and other related Annual Audited Reports for the fiscal year ended June 30, 2016.

**XVII. RESOLUTIONS**

- \* 8. **Adopt a Resolution Making Findings for Unexpended Development Fees and Review and Accept the Annual Developer Fee Disclosure Information Pursuant to the Mitigation Fee Act (Staff Contact: Jane Corpus, 408-586-3125)**

**Background:** California Government Code Section 66000 et seq. (“Mitigation Fee Act”) requires local agencies to provide an accounting of fees charged for development projects. The City has two basic accounting and reporting responsibilities under the Government Code. Section 66001(d) requires that, five years after collecting a development fee subject to this Code section and every five years thereafter, the local agency shall make findings with respect to any portion of the fee remaining unexpended, whether committed or uncommitted. If the required findings are not made, the unexpended funds shall be refunded to the current property owners.

Findings must:

1. Identify the purpose of the fee;
2. Demonstrate a reasonable relationship between the fee and the purpose for which it was charged;
3. Identify all sources and amounts of funding anticipated to complete financing of incomplete improvements; and
4. Designate the approximate dates on which these funding sources can be expected to be deposited into the appropriate account or fund.

When sufficient funds have been collected to complete financing on incomplete public improvements, the local agency has 180 days to identify an approximate date by which the construction of the public improvement will begin or else is required to refund the unexpended fees, including accrued interest, to the current owner of lots or units of the development project.

The second requirement set forth under Government Code Section 66006(b)(1) provides that the City shall establish separate capital improvement accounts or funds for each improvement funded by project development fees. Any interest income earned by funds in such an account shall be deposited in such account. Each local agency is required on an annual basis, within 180 days after fiscal year end, for each separate account, to make available to the public the following information:

1. Brief description of the type of fee in the account;
2. The amount of the fee;
3. The account’s beginning and ending balance;
4. The amount of fees collected and the interest earned;
5. A description of the improvements on which the funds were expended and the amount expended on each improvement including the percentage of the improvement funded with development fees;
6. An approximate date by which the construction of a public improvement will begin if the local agency determines that sufficient funds have been collected to complete financing on the incomplete improvement;
7. A description of each inter-fund transfer or loan made from the account; and
8. The amount of any refunds made pursuant to Code Section 66001.

The City deposits mitigation fees subject to the above disclosure in the Traffic Impact Fee Fund, Transit Area Specific Plan (TASP) Impact Fee Fund, Storm Drain Development Fund, and Park Development Fee Fund to track these development related fees. Interest income is allocated to the funds based on their respective monthly cash balances. Expenditures from these funds were in the form of capital improvement projects to either renovate existing facilities or maintain the existing level of service, consistent with the General Plan and approved Capital Improvement Plan due to increased demand related to the development projects.

Status reports (included in the agenda packet) summarize the Fiscal Year 2015-2016 fund activity for Traffic Impact Fee (Exhibit 1); Transit Area Specific Plan (TASP) Impact Fee (Exhibit 2); Storm Drain Development Fee (Exhibit 3); and Park Development Fee (Exhibit 4). The reports show the amount of fees collected in fiscal year 2015-2016, interest income, a brief

description of the projects funded, the percentage of the projects funded by the development fees, and the beginning and ending balance of the funds.

Fund balances at the end of June 30, 2016 are as follows:

Fund	FY 15-16 Revenues Collected	FY 15-16 Expenditures	Ending Fund Balance
Traffic Impact Fee	\$76,424	\$181,960	\$1,336,255
TASP Impact Fee	\$29,095,895	\$6,982,335	\$16,751,480
Storm Drain Development Fee	\$824,687	\$750,000	\$1,003,501
Park Development Fee	\$6,412	\$3,183,276	\$0

Staff identified traffic impact fees of \$22,579, which were collected from development projects, for traffic impact mitigation on Montague Expressway, that are over five years old. These funds will be appropriated into existing and future capital improvement projects to fund widening improvement on Montague Expressway within City limits. The Montague Expressway Widening project's estimated cost is \$38.5 million, and the City's share of the cost is approximately \$25.5 million.

**Fiscal Impact:** None. There is no fiscal impact for the recommended action.

**Recommendation:** Adopt a resolution making certain findings pursuant to the Mitigation Fee Act for Fiscal Year 2015-16 regarding the continuing need for unexpended development fees, and review and accept the annual developer fee disclosure information.

- \* 9. **Adopt a Resolution Granting Initial Acceptance of, and Reducing the Performance Bond for Wrigley-Ford Creek Erosion Repair Project No. 3700 and Granting Authorization to the City Engineer to Issue the Notice of Final Acceptance after the One-Year Warranty Period and to Release the Performance Bond (Staff Contact: Steve Erickson, 408-586-3301)**

**Background:** City Council awarded the Wrigley-Ford Creek Erosion Repair Project No. 3700 to Preston Pipelines, Inc. on September 6, 2016. Project work consisted of removal of temporary interim drainage improvements, removal of sediment washed into the creek, repair of the bank erosion, irrigation repair, and re-seeding of the erosion areas.

The project was successfully completed on time and within budget. Staff recommends the City Council adopt a resolution granting initial acceptance of the project and to authorize the reduction of the contractor's faithful performance bond to \$6,660.00, which is 10% of the final contract value. Staff also recommends the City Council authorize the City Engineer to issue the Notice of Final Acceptance and to release the performance bond after the one year warranty period without further City Council action, provided all warranty work is completed to the satisfaction of the City Engineer.

**Fiscal Impact:** None.

**Recommendation:** Adopt a resolution granting initial acceptance of the Wrigley-Ford Creek Erosion Repair Project No. 3700 subject to a one year warranty period and reduction of the faithful performance bond to \$6,660.00; and granting authorization to the City Engineer to issue the notice of final acceptance after the one-year warranty period and to release and discharge the performance bond without further City Council action.

- \*10. **Adopt a Resolution Approving a Sole Source Agreement with TriTech Software Systems and Authorizing the City Manager to Execute Amendment No. 1 to the Agreement with TriTech including a Statement of Work for an Upgrade to the Law Enforcement Records**

**Management System (RMS) for a Total of \$437,511 (Staff Contacts: Mike Luu, 405-586-2706 and Armando Corpuz, 408-586-2534)**

**Background:** A Law Enforcement Records Management System (RMS) is an agency-wide system that provides for the storage, retrieval, retention, manipulation, archiving, and viewing of information, records, documents, or files pertaining to law enforcement operations. An effective RMS allows single entry of data, while supporting multiple reporting mechanisms. The Milpitas Police Department's current RMS has been in use since 1996. Current hardware is no longer supported by IBM. The current Tiburon RMS software will not be supported beyond July 1, 2017. Sole Source designation is authorized pursuant to Milpitas Municipal Code section I-2-3.09 Sole Source Procurement.

Milpitas Police Department has a need to upgrade its RMS software to the TriTech Inform RMS. The City of Milpitas entered into an agreement with TriTech Software Systems in 2003 and purchased TriTech's Computer Aided Dispatch (CAD) software. The upgrade to Inform RMS will allow the Police Department to integrate CAD, RMS, mobile data, analytics, and Field Based Reporting, which is the module officers will use for report writing. This integration will keep Police compliant with state and federal reporting standards while enabling the department to automate operations, records processing, and reporting.

Other law enforcement agencies in the region are using TriTech software. The Police Department's integration will improve data sharing capabilities and interoperability with other law enforcement agencies on the same software platform. The data sharing and interoperability opportunities will enhance the department's ability to service the City.

TriTech Software Systems acquired Tiburon Inc. in February 2015, and the acquisition allows the City to upgrade the RMS software at a reduced licensing cost. Police Department staff has previously viewed other RMS software and concluded upgrading to TriTech Inform RMS offers the best solution for software integration and interoperability. The RMS software upgrade cost under this amendment is \$437,511. The cost may increase, at a later time, as Police reviews additional software modules that can enhance police operations.

**Fiscal Impact:** None.

The project is funded under 2016-21 Capital Improvement Program, Project No. 3423, Police Records Management System. The initial cost of \$437,511 includes one year of support and maintenance, covering the first year. The support and maintenance costs for future option years includes a price increase based on the Consumer Price Index (CPI) not to exceed five percent. Costs for additional years of maintenance and support beyond the first year is based on \$50,022. Approval of this Amendment with TriTech will represent a savings of \$11,133 per year to the City, based on the current support and maintenance costs.

**Recommendations:**

1. Adopt a resolution approving the sole source agreement and statement of work.
2. Authorize the City Manager to execute Amendment No. 1 to the Agreement with TriTech Software Systems for a Records Management System upgrade for Milpitas Public Safety Dispatch.
3. Authorize the Purchasing Agent to extend the term of the agreement for the next four years, based on the terms of the agreement and without further City Council action, except for appropriation of funds.

- \*11. Adopt a Resolution Authorizing the City Manager to Execute a New Sole Source Agreement with Telecommunications Engineering Associates For Maintenance and Support of the Public Safety Dispatch Center Telecommunications System in an Amount Not-To-Exceed \$91,232 Per Year (Staff Contacts: Chris Schroeder, 408-586-3161 and Armando Corpuz, 408-586-2534)**

**Background:** Telecommunications Engineering Associates (TEA), a subsidiary of Daryl D. Jones Inc. a California corporation, was the manufacturer's recommended designer and installer for the telephone and radio communication system, an analog system, included in the Dispatch Center remodel in 2002. TEA also worked on the Enhanced Public Safety Capital Improvement Program (CIP Project No. 3389) to upgrade those same telephone and radio communication systems in the Dispatch Center. In 2007 the City entered an agreement with TEA who custom designed, built and maintains the systems. The agreement was for five years and was extended for an additional four more, but is now expiring along with the Sole Source designation which was granted on November 4, 2011 and is reauthorized pursuant to Milpitas Municipal Code I-2-3.09 Sole Source Procurement.

The City is involved with various county wide radio interoperability projects which are still under development. During the interim period it is in the City's best interest to maintain an agreement with TEA. TEA, the only vendor who has ever worked on the system, can use its extensive technical knowledge of the design and installation of the existing public safety communication system to integrate any potential new equipment, which makes them the most logical choice to continue to provide ongoing maintenance and repair of the system.

The new maintenance agreement is for one year from November 13, 2016 to November 12 2017, with a one year option to extend to November 13, 2018. The City expects to transition to the new Silicon Valley Regional Communications System, a Motorola digital based system, by the second quarter of 2018. TEA services will be needed during the transition, but once the system is fully operational TEA services will no longer be needed. The new agreement contains updated terms, conditions and pricing. The annual amount of the agreement is \$86,232 with a contingency for unforeseen repairs of \$5,000 for a total annual agreement amount not to exceed of \$91,232 for a total two year agreement amount not-to-exceed of \$182,464. TEA will continue to provide 24 hour, seven day per week, on call support for the Dispatch Center communications systems. In addition, TEA will provide preventative maintenance, periodic review of system components and any necessary training of City staff.

**Fiscal Impact:** None. Funding for this service is available from the Police Department operational budget.

**Recommendations:**

1. Adopt a resolution and authorize the City Manager to execute a sole source agreement with Telecommunications Engineering Associates, a subsidiary of Daryl D. Jones, Inc., for maintenance and support of the Milpitas Police Department's Public Safety Dispatch Center communications system in an amount not to exceed \$91,232 per year.
2. Authorize the Purchasing Agent to extend the term of the agreement for one additional year without further City Council action, except for appropriation of funds.

**\*12. Adopt a Resolution Amending the City's Classification Plan Related to Positions in the City Manager's Office, Public Works, Planning and Neighborhood Services and Recreation Departments; Authorize Positions and Approve a Budget Appropriation for the Public Works and City Manager's Office Positions (Staff Contact: Tina Murphy, 408-586-3086)**

**Background:** Amendments to the Classification Plan are periodically required to account for organizational changes and changes in job responsibilities. The proposed amendment reflects the following changes:

- 1) The City Manager's office is requesting reclassification of the Economic Development Manager to Economic Development Director. The Economic Development Director reflects the wide range of economic development and planning programs that the City Manager's office is required to conduct to attract new businesses and programs to the City.

2) The Public Works Department is requesting to add a Deputy Public Works Director to manage regulatory compliance, contract management and department-wide administrative services. This position will be responsible for working closely among the Public Works Department, Engineering Department, and state and federal regulatory bodies to ensure the City is in compliance with required updates to properly operate the Public Works Department. The department has identified regulatory programs that need immediate attention and ongoing management to ensure public safety, employee safety and environmental stewardship. This position will report directly to the Public Works Director and will also assist with fiscal and budgetary management for the Department. The Deputy Director will oversee the administrative services staff, contractual management staff and operations staff as needed.

3) The Planning and Neighborhood Services Department is requesting to fund a Planning Manager and two Associate Planner positions. These positions are essential to providing customer service levels and to ensure completion of several long-range Planning initiatives, such as updates to the General Plan, Transit Area, and Midtown Specific Plans. Currently, contract planning staff is utilized to assist the Department with the current work program, however, hiring permanent staff is necessary to help increase accountability and to ensure better application of General Plan policies and Zoning Ordinance laws.

4) The City Manager's office is also requesting a reclassification of the Recreation Manager to Director of Recreation and Community Services for the Recreation Department. The Director of Recreation and Community Services classification demonstrates the current position expectations and additional duties of park, recreation facility and amenity project planning and facilitation, CIP Project Management, private art coordination with private developers, citywide marketing and promotion projects, planning large scale community events and recreation and service programs for the City. The Recreation Department is a key liaison between the residents of the City of Milpitas and City staff. Intended and additional duties of the current Recreation Services Manager are that of the level of neighboring City Recreation Directors with similar sized departments, programs and responsibilities.

**Fiscal Impact:**

1. An appropriation in the amount of \$56,800 from the Sewer fund and \$28,400 from the General Fund to the Public Works Department budget is necessary to fund the Deputy Director of Public Works position for the remainder of FY 2016-17. In addition, contractual savings in the Utility Engineering function in the amount of \$56,800 will be used to partially offset the cost of the position for FY 2016-17. The total annual salary and benefits for a Deputy Public Works Director ranges from \$208,500 - \$282,700.
2. No additional budget appropriation is necessary to fund the Economic Development Director position for FY 2016-17. Incremental cost resulting from the reclassification of the Economic Development Manager to Economic Development Director will be covered by savings from a vacant position. The total annual salary and benefits range for the Economic Development Director position is \$209,800 - \$284,700 as compared to \$182,400 - \$230,300 for an Economic Development Manager.
3. No additional budget appropriation is necessary to fund the Director of Recreation and Community Services position for FY 2016-17. Incremental cost resulting from the reclassification of the Recreation Manager to Director of Recreation and Community Services will be covered by savings from vacant positions. The total annual salary and benefits range for the Director of Recreation and Community Services position is \$213,700 - \$290,500 as compared to \$159,100 - \$200,100 for a Recreation Services Manager.
4. No additional budget appropriation is necessary to fund the Planning Manager and the two Associate Planner positions for FY 2016-17. The cost of these positions will be covered by contractual savings in the Planning department. The total annual salary and benefits range for a Planning Manager is \$160,700 - \$213,700 and \$147,600 - \$174,600 for an Associate Planner.

**Recommendations:**

1. Adopt a resolution amending the Classification Plan to reflect the budgetary authorization of (1) addition of the Economic Development Director classification, (2) addition of the Deputy Public Works Director classification, (3) addition of the Director of Recreation and Community Services classification, (4) deletion of one Economic Development Manager in the City Manager's Office, and (5) deletion of one Recreation Services Manager in the Recreation Department.
2. Approve a budget appropriation in the amount of \$56,800 from the Sewer Fund and \$28,400 from the General Fund; and approve a budget transfer of \$56,800 from the Utility Engineering function in the Engineering Department to the Public Works Department for one Deputy Public Works Director in the Public Works Department.

**\*13. Adopt a Resolution Amending the Classification Plan to Adjust Salary Ranges for City of Milpitas Unrepresented Classifications (Staff Contact: Tina Murphy, 408-586-3086)**

**Background:** Amendments to the Classification Plan are periodically required to account for organizational changes and changes in job responsibilities. In addition, the Classification Plan may be updated to reflect changes in salary ranges for represented and unrepresented classifications. Salary ranges provide the City with flexibility in determining placement of new hires and promotional candidates based on experience and education, and provide opportunity for merit based salary increases for existing employees.

The City of Milpitas has experienced recruitment challenges following the adoption of the City's second tier CalPERS Retirement Formulas in 2011 and 2012, and the State's implementation of the Public Employees' Pension Reform Act (PEPRA) of 2013. A major challenge has been attracting qualified candidates who have a more generous retirement formula to apply for positions with the City of Milpitas. In addition, employees applying for promotional opportunities may experience salary compaction with their previous salary or with subordinate staff, who receive longevity pay and various special and incentive pay which unrepresented management employees are not eligible to receive.

In preparation for the study, the City evaluated salary ranges for unrepresented classifications and discovered variance in the minimum and maximum salaries between 21% and 70%. The Human Resources Department is recommending a consistent salary spread of 40% for the City of Milpitas unrepresented management classifications to provide opportunity for salary increases for tenured employees and a larger range for salary negotiations for new hires.

Expanding the salary pay scale range for unrepresented classifications will motivate employees to apply for promotional opportunities, reduce compaction, and help attract and retain management employees. Salary ranges for the Council appointed positions of City Attorney and City Manager will continue to be established by City Council.

**Fiscal Impact:** None. Changing the salary ranges will not result in an automatic pay increase for incumbents in unrepresented classifications, which will continue to be at the discretion of the City Manager.

**Recommendation:** Adopt a resolution amending the Classification Plan to adjust salary ranges for City of Milpitas unrepresented management classifications and allow the City Manager to increase salaries at his discretion.

**XVIII. AGREEMENTS**

**\*14. Authorize City Manager to Execute the Third Amendment to the 911 Emergency Medical Services Provider Agreement Between the City of Milpitas and the County of Santa Clara County (Staff Contact: Robert Mihovich, 408-586-2811)**

**Background:** The City of Milpitas has been in contract with the 911 Santa Clara County Emergency Medical Services agency since 2011, providing the City with emergency ambulance transportation services in the Santa Clara County Exclusive Operational Area (EOA). This third amendment is proposed to grant the Milpitas Fire Department Supplemental Transport Ambulance Resource (STAR Car) rights in effort to enhance the Milpitas Fire Department's level of service exclusively to the residents of the City of Milpitas. This amendment will supplant Milpitas residents with an additional unit of emergency transportation when necessary. Furthermore, the City will collect revenue from County of Santa Clara in compensation for its additional transportation services provided in the City of Milpitas.

**Fiscal Impact:** None.

**Recommendation:** Authorize the City Manager to execute the Third Amendment to the 911 Emergency Medical Services Provider Agreement between the City of Milpitas and the County of Santa Clara County to allow Supplemental Transportation Ambulance Resource rights to the City of Milpitas.

- \*15. Approve Amendment No. 3 to the Agreement with Law Firm of Burke, Williams & Sorensen, LLP for Legal Services Regarding Elimination of Odor (Staff Contact: Christopher Diaz, 408-586-3040)**

**Background:** Since 2011, the City has been engaged in efforts opposing the expansion of the Newby Island landfill. At Council direction, the City Attorney's office conducted a nationwide search to find an attorney firm to advise on all potential means by which to eliminate the offensive odors plaguing the community. Burke, Williams & Sorensen was selected to advise and represent the City regarding the odor problem.

This is the Third Amendment to the current agreement to continue with necessary legal and associated representation related to the odor nuisance issues involving the Newby Island Landfill. The scope of services included in the amendment to continue with legal services to abate the odor nuisance is included in the Council's agenda packet.

**Fiscal Impact:** The budget to fund the Third Amendment to the current contract is a not-to-exceed amount of \$35,000. If approved, the funding will be transferred from the contingency reserve account into the City Attorney's budget.

**Recommendation:** Approve the Third Amendment to the current Agreement with Burke, Williams and Sorensen for Legal Services regarding elimination of odors and direct the City Manager to sign the Third Amendment.

- \*16. Approve Final Map Tract No. 10393 for a Six-Commercial/Industrial Building Development Located at 625 North McCarthy Boulevard (McCarthy Creekside) and Authorize the City Manager to Execute the Subdivision Improvement Agreement (Staff Contact: Judy Chu, 408-586-3325)**

**Background:** On June 21, 2016, the City Council conditionally approved a Vesting Tentative Map (VTM) to allow for a six commercial/industrial buildings located at 625 North McCarthy Boulevard near Ranch Drive by The McCarthy Ranch Limited Partnership (the "Developer").

The City Engineer has examined the final map Tract No. 10393 (Attachment 1) and determined that the final map Tract No. 10393 is substantially the same as the VTM pursuant to California Government Code (GC) Section 66442. The City Council shall not deny approval of a final map if it has previously approved a tentative map for the proposed subdivision and if it finds that the final map is in substantial compliance with the previously approved tentative map pursuant to GC Section 66474.1. Therefore, once the City Engineer certifies the final map, there are no additional discretionary grounds for the City Council to disapprove the final map.

The Developers have offered dedications to the City for public use, such as public service and sidewalks, public utilities, and emergency vehicle access, as required by the project condition and as depicted on the final map. City Council shall accept, accept subject to improvements, or reject any offer of dedication at the time of final map approval pursuant to GC Section 66477.1 and Milpitas Municipal Code (MMC) Section XI-1-5.05-2.

The City Engineer has also reviewed and approved public improvement plans (2-1213) pursuant to MMC XI-1-7.09-2. The Developer have executed a Subdivision Improvement Agreement (Attachment 2) as approved by the City Attorney as to form and by the City Engineer as to substance pursuant to MMC XI-1-17.01, paid all development fees and provided improvement securities (\$1,111,000.00 for faithful performance and \$1,111,000.00 for labor and materials) to guarantee completion of required public improvements.

The final map Tract 10393 conforms to all of the requirements of the State of California Subdivision Map Act, and Milpitas Municipal Code Title XI, Chapter 1 *Subdivisions*.

**California Environmental Quality Act:** Approval of final subdivision map is a ministerial action exempt from the California Environmental Quality Act pursuant to CEQA Guidelines Section 15268(b)(3).

**Fiscal Impact:** None.

**Recommendations:** (1) Approve Final Map Tract No. 10393, including acceptance of all offers of dedications as stated and depicted on the final map upon completion and acceptance of improvements; and (2) authorize the City Manager to execute the Subdivision Improvement Agreement.

- \*17. Approve and Authorize the City Manager to Execute the Third Amendment to a Multi-Party Agreement Providing for Continued Participation in the Santa Clara Valley Urban Runoff Pollution Prevention Program (Staff Contact: Judy Chu, 408-586-3325)**

**Background:** The Santa Clara Valley Urban Runoff Pollution Prevention Program (SCVURPPP) was established in the 1980's through a Memorandum of Agreement with the City of Milpitas and 12 cities in Santa Clara County, the County of Santa Clara, and the Santa Clara Valley Water District (SCVWD). The SCVURPPP was formed to combine resources in order to achieve compliance with the state mandated requirement of establishing a program to control storm water pollution in the Santa Clara Valley. In 2000 the parties entered into the Agreement Providing for Implementation of the SCVURPPP that established terms relating to the implementation, oversight, and cost allocation of the program.

The Agreement was first amended in 2005 to extend one fiscal year beyond the termination date of the National Pollutant Discharge Elimination System (NPDES) Permit issued to the parties. The Municipal Regional Stormwater NPDES Permit regulates the discharge of stormwater runoff from the separate municipal storm sewer systems. The Agreement was amended a second time in 2010 to extend one fiscal year beyond the termination date of the NPDES Permit. A new Municipal Regional Stormwater NPDES Permit was issued by the Regional Water Quality Control Board – San Francisco Bay Region and became effective on January 1, 2016.

The subject Amendment enables the continuation of Milpitas' participation in the SCVURPPP Program under the original terms, for one fiscal year after the current permit expiration date of December 31, 2020, or regulatory agency permit term extension. On August 18, 2016, the SCVURPPP Management Committee unanimously approved a motion to refer the subject Amendment to each respective governing body for approval.

**California Environmental Quality Act:** This action is exempt from CEQA as there will be no physical change to the environment.

**Alternative:** If the Amendment is not approved, the City will not be available to benefit from the regional resources that help Santa Clara County municipalities cost-effectively comply with the Municipal Regional Stormwater NPDES Permit.

**Fiscal Impact:** The City's proportional share of the SCVURPPP cost is 2.75% of the total program budget. The SCVURPPP program costs for FY 2016-17 total \$4,588,199 and the Milpitas share is \$126,175. The Engineering operating budget provides this funding and the FY 2016-17 invoice has been paid. It is projected that future annual costs will increase slightly over the term of the Amendment.

**Recommendation:** Approve and authorize the City Manager to execute the Third Amendment to the Multi-Party Agreement providing for continued participation in the Santa Clara Valley Urban Runoff Pollution Prevention Program.

- \*18. Authorize the City Manager to Execute a Storm Water Management Operation and Maintenance Agreement for Traverse Partners, LLC (Staff Contact: Judy Chu, 408-586-3325)**

**Background:** On June 4, 2013, the City Council conditionally approved a Site Development Permit, a Major Tentative Map and a Conditional Use Permit for a 206-unit residential development at 569-625 Trade Zone Boulevard between Montague Expressway and Lindy Avenue.

Project condition no. 51f. requires the property owner to execute and record a Storm Water Management Operation and Maintenance Agreement (the "Agreement") with the City for the operation, maintenance and annual inspection of the storm water treatment facilities, prior to final building occupancy.

The Agreement (copy in the agenda packet) has been reviewed by the City Attorney as to form and by the Director of Engineering as to content.

**California Environmental Quality Act:** Execution of the Agreement is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change in the environment.

**Fiscal Impact:** None.

**Recommendation:** Authorize the City Manager to execute a Storm Management facilities Operation and Maintenance agreement for Traverse Partners, LLC.

- \*19. Approve Amendment No. 2 to the Consultant Agreement with RMC Water & Environment for the Recycled Water Pipeline Extension, Capital Improvement Program, Project No. 7118, Extending the Agreement Term to December 31, 2017 (Staff Contact: Marilyn Nickel, 408-586-3347)**

**Background:** On May 5, 2015, the City Council directed staff to continue with Water Supply Augmentation tasks for conservation, recycled water, and ground water wells. The City has planned recycled water pipeline extensions east of I-680 to serve schools, parks, hillside golf courses and general landscaping. The state is managing grant and revolving loan funding programs for recycled water projects.

On June 16, 2015 the City entered into a consulting service agreement with RMC Water & Environment, Inc. for professional services related to conceptual design, environmental

compliance documentation and funding application for recycled water system extension, in the amount of \$482,792.00 with an expiration of June 30, 2016. On May 5, 2016, the parties entered into Amendment No. 1 to extend the term of the Agreement through December 31, 2016.

The work performed to date includes analyzing hydraulic modeling data, developing and ranking several alternative alignments, developing funding estimates, preparing environmental documents, and conducting stakeholder meetings. Stakeholders include Santa Clara Valley Water District, County of Santa Clara, Spring Valley Golf Course, and Summitpointe Golf Course.

The proposed recycled water project includes five pipeline extensions, a recycled water reservoir, and a pump station. These projects have been identified in the City's 2016-2021 Capital Improvement Program based upon preliminary cost estimates. The cost estimates have been updated during the development and review of the pipeline alternative alignments and include additional contingency as state funding cannot be adjusted for unforeseen circumstances once funding is awarded.

Staff recommends completing and submitting the application package. Staff will bring any state funding offers to the City Council for discussion. The consultant agreement expires on December 31, 2016. It is necessary to amend the consultant agreement to extend the term of the agreement to December 31, 2017 to allow for completion of the application package and to respond to State requests for clarifications and/or additional information. There are sufficient funds in the project budget and no additional appropriation is requested.

**California Environmental Quality Act:** This amendment is exempt from CEQA under Guideline 15061(b)(3) as it can be seen with certainty that this amendment will not cause any physical change to the environment. Approval of this amendment does not commit the City to any specific project or course of action and independent CEQA review will be done at such time that a project is proposed.

**Alternative:** Failure to approve the agreement will cause work to cease on the funding application package.

**Fiscal Impact:** None. There are sufficient funds in the project budget.

**Recommendation:** Approve Amendment No. 2 to the consultant agreement with RMC Water & Environment for the Recycled Water Pipeline Extension Project extending the agreement term to December 31, 2017.

- \*20. Approve Amendment No. 4 to the Consultant Agreement with HF&H Consultants for Solid Waste Procurement Services in the Amount of \$138,160 and Approve a Budget Appropriation in the Amount of \$200,000 for CIP No. 3401 (Staff Contact: Marilyn Nickel, 408-586-3348)**

**Background:** The City's 30-year solid waste collection and disposal agreements with Republic Services expires in September 2017. On December 2, 2014, the City entered into an agreement with HF&H Consultants (HF&H) for \$55,525 to identify and analyze the City's options for obtaining future services. On April 7, 2015, Council chose to conduct a competitive process. On May 5, 2015 and June 16, 2015 staff received Council direction regarding the policies governing and the content of the solid waste services Request for Proposal (RFP). Proposals were received on October 27, 2015 as required in the RFP schedule.

On June 16, 2015, Council approved Amendment No. 1 in the amount of \$49,925 to include the next phase of work, which involved developing a list of proposers, completing development of, and issuing the RFP including two draft agreements, posting the RFP to a dedicated website, responding to proposer questions, and receiving and conducting an initial review of the

proposals. On November 17, 2015, Council approved Amendment No. 2 to the Agreement with HF&H in the amount of \$106,800 to allow continuation of work related to initial proposal review for both disposal and collection proposals and to perform most of the work necessary for the evaluation, negotiation and public presentation of information related to the selection of disposal services contractor. On March 1, 2016, Council approved Amendment No. 3 in the amount of \$200,000 to complete the procurement process.

On June 21, 2016, the City Council directed staff to conduct negotiations and secure collection agreements with four of the collection proposers. It is now necessary to amend the consultant agreement to address the next phase of work, which includes additional effort for final contract negotiations and execution, developing an implementation plan, and providing implementation assistance during the next several months. Staff anticipates providing a status update to Council in approximately 6 months. Staff recommends increasing the contract amount by \$138,160, for a total not-to-exceed cost of \$550,410.

In each case, staff recommended use of a phased approach for the consultant work due to unknowns that have included the number and content of proposals that were to be submitted, the extent of the alternatives/exceptions proposed, needs for added public outreach, and Council direction in negotiating agreements with one or more finalist for disposal and for collection.

**California Environmental Quality Act:** The item is not considered a project under CEQA as there will be no direct, or reasonably foreseeable indirect physical change to the environment, as it merely provides for staffing needs to address solid waste procurement services.

**Alternative:** If the amendment is not approved, engineering staff will not receive additional consulting services to complete implementation of solid waste collection.

**Fiscal Impact:** A budget appropriation of \$200,000 from the Solid Waste Fund to CIP No. 3401 is necessary to perform this work.

**Recommendations:**

1. Approve Amendment No. 4 to the consultant agreement with HF&H Consultants for solid waste procurement services in the amount of \$138,160.
2. Approve a budget appropriation in the amount of \$200,000 from the Solid Waste Fund to CIP No. 3401.

**\*21. Approve Amendment No. 3 to Employment Agreement with City Manager Thomas C. Williams (Staff Contact: Christopher Diaz, 408-586-3040)**

**Background:** Over the past few months, all five City Council members have met in closed session to conduct a performance review of the City Manager. The outcome of that review process was positive. One of the products of that process is a longevity contract amendment consistent with other employee groups. The amendment would provide the City Manager with a 2% longevity based salary increase for providing 10 years of satisfactory service to the City. The Third Amendment in the agenda packet amends the City Manager's current employment agreement to provide this 2% longevity increase.

**Recommendation:** Approve the Third Amendment to the employment agreement between the City of Milpitas and City Manager Thomas C. Williams.

**NEXT REGULARLY SCHEDULED COUNCIL MEETING  
TUESDAY, DECEMBER 6, 2016**